# LEGISLATION AFFECTING RURAL LETTER CARRIERS

## HEARING

BEFORE THE

SUBCOMMITTEE ON
SELECT REVENUE MEASURES

OF THE

## COMMITTEE ON WAYS AND MEANS
## HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

ON

**H.R. 1884**

TO PROVIDE RULES FOR COMPUTING THE AMOUNT OF THE DEDUCTIONS ALLOWED TO RURAL MAIL CARRIERS FOR USE OF THEIR AUTOMOBILES

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JUNE 10, 1985

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**Serial 99-15**

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# LEGISLATION AFFECTING RURAL LETTER CARRIERS

MONDAY, JUNE 10, 1985

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SELECT REVENUE MEASURES,
*Washington, DC.*

The subcommittee met, pursuant to call, at 10 a.m., in room 1100, Longworth House Office Building, Hon. Charles B. Rangel (chairman of the subcommittee) presiding.

[The press release announcing the hearing, the bill H.R. 1884, and a description of the bill, follow:]

[For immediate release, Tuesday, June 4, 1985]

THE HONORABLE CHARLES B. RANGEL (D., N.Y.), CHAIRMAN, SUBCOMMITTEE ON SELECT REVENUE MEASURES, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A PUBLIC HEARING ON H.R. 1884, LEGISLATION AFFECTING RURAL LETTER CARRIERS

The Honorable Charles B. Rangel (D., N.Y.), Chairman, Subcommittee on Select Revenue Measures, Committee on Ways and Means, U.S. House of Representatives, announces a public hearing on H.R. 1884 (Mr. Flippo, Mr. Jenkins, and others), a bill to provide rules for computing the amount of the deduction allowed to rural letter carriers for use of their automobiles. The hearing will be held on Monday, June 10, 1985, at 10:00 a.m. in 1100 Longworth Building, the Committee's main hearing room. Testimony will be from invited witnesses.

In announcing the hearing, Chairman Rangel stated, "Changes in Internal Revenue Service procedure have created confusion and hardship for many rural mail carriers. I am hopeful that our hearing will allow all concerned to express their views."

H.R. 1884 seeks to clarify rules for the business use of automobiles by rural letter carriers by allowing rural mail carriers to deduct 150 percent of the basic standard mileage rate and to exempt them from the 50 percent business use requirement of section 280F(b). In addition, the legislation provides that prior to January 1, 1985, the amount received as an equipment maintenance allowance shall not be treated as income for covered individuals who do not depreciate or claim actual expenses.

Anyone interested in testifing at the hearing should contact the Committee on Ways and Means at (202) 225-3627.

STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting written statements for the printed record of the hearing should submit at least six (6) copies by the close of business, Friday, June 21, 1985, to Joseph K. Dowley, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may provide 100 additional copies for this purpose to the Committee office before the hearing begins.

Statements for the record should contain the following information:

1. The name, full address, and capacity in which the witness will appear, as well as a telephone number where the witness or a designated representative may be reached; and

2. A list of any clients or persons, or any organization for whom the witness appears.

99TH CONGRESS
1ST SESSION

# H. R. 1884

To provide rules for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 1985

Mr. FLIPPO (for himself, Mr. JENKINS, Mr. CAMPBELL, Mr. FOWLER, Mr. ANTHONY, Mr. MATSUI, Mrs. KENNELLY, Mr. DOWNEY of New York, Mr. JONES of Oklahoma, Mr. RANGEL, Mr. DUNCAN, Mr. PICKLE, Mr. MCGRATH, and Mr. JACOBS) introduced the following bill; which was referred to the Committee on Ways and Means

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# A BILL

To provide rules for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BUSINESS USE OF AUTOMOBILES BY RURAL MAIL CARRIERS.**

(a) TAXABLE YEARS BEGINNING AFTER 1984.—

(1) IN GENERAL.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural

route, for taxable years beginning after December 31, 1984—

(A) such employee shall be permitted to compute the amount allowable as a deduction under chapter 1 of the Internal Revenue Code of 1954 for the use of an automobile in performing such services by using a standard mileage rate for all miles of such use equal to 150 percent of the basic standard rate, or

(B) if the employee does not use such standard mileage rate, section 280F(b) of the Internal Revenue Code of 1954 (relating to limitation where business use of listed property not greater than 50 percent) shall not apply to any automobile used in performing such services.

(2) PARAGRAPH (1)(A) NOT TO APPLY IF EMPLOYEE CLAIMS INVESTMENT TAX CREDIT OR ACCELERATED COST RECOVERY DEDUCTIONS FOR AUTOMOBILE.—Paragraph (1)(A) shall not apply with respect to any automobile if, for any taxable year beginning after December 31, 1984, the taxpayer claimed an investment tax credit or depreciation deductions for such automobile.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BASIC STANDARD RATE.—The term "basic standard rate" means the standard mileage rate which is prescribed by the Secretary of the Treasury or his delegate for computing the amount of the deduction for the business use of an automobile and which—

(i) is in effect at the time of the use referred to in paragraph (1),

(ii) applies to an automobile which is not fully depreciated, and

(iii) applies to the first 15,000 miles (or such other number as the Secretary may hereafter prescribe) of business use during the taxable year.

(B) INVESTMENT TAX CREDIT.—The term "investment tax credit" means the credit determined under section 46(a) of the Internal Revenue Code of 1954.

(b) YEARS BEFORE 1985.—In the case of an employee described in subsection (a)(1), for taxable years beginning before January 1, 1985—

(1) the amount allowable as a deduction for any such taxable year under chapter 1 of the Internal Revenue Code of 1954 for the use of an automobile in performing services described in subsection (a)(1) shall be

the amount received by the employee during such taxable year as equipment maintenance allowances from the United States Postal Service Service, except that

(2) such employee shall be permitted for any such taxable year to compute the amount so allowable in accordance with the form entitled "Worksheet for Use of Rural Carrier in Reporting Equipment Allowance and Claiming Transportation Expense Deduction" which was approved by the Internal Revenue Service in 1956 after being prepared by the National Rural Letter Carriers' Association.

## Description of H.R. 1884 Relating to Deduction for Use of Automobiles by Rural Letter Carriers, Prepared by the Staff of the Joint Committee on Taxation

### INTRODUCTION

The Subcommittee on Select Revenue Measures of the Committee on Ways and Means has scheduled a public hearing on June 10, 1985, on H.R. 1884 (introduced by Messrs. Flippo, Jenkins, Campbell, Fowler, Anthony, Matsui, Mrs. Kennelly, Messrs. Downey of New York, Jones of Oklahoma, Rangel, Duncan, Pickle, McGrath, and Jacobs). H.R. 1884 would provide rules for computing the amount of the deduction allowed to rural letter carriers for use of their automobiles in the course of their employment.

This document,[1] prepared in connection with the Subcommittee hearing, provides a description of present law and of the provisions of the bill.

### DESCRIPTION OF THE BILL

*Present law*

Taxpayers are generally permitted to deduct business expenses, such as automobile travel (other than commuting), necessary to perform their jobs. Generally, taxpayers must keep records of these expenses in order to justify these deductions. The Internal Revenue Code gives the Secretary of the Treasury the authority to provide standard mileage rates that taxpayers can elect to use in lieu of keeping records of actual expenses for the business use of their automobiles (Code sec. 274(d)). For 1985, the standard mileage rate is 20.5 cents per mile for each business mile up to 15,000 in each of the first 4 years the automobile is in service; for any additional business miles, the standard mileage rate is 11 cents per mile. The rate drops in this manner primarily because it is assumed that the automobile has fully depreciated after 4 years and 60,000 miles of business use.

If the taxpayer does not choose to use the standard mileage rate, the taxpayer must keep records of expenses; the taxpayer may also claim depreciation deductions for the automobile. If more than 50 percent of the use of the automobile is in the taxpayer's trade or business, the taxpayer may depreciate the automobile using ACRS depreciation (Code sec. 280F(b)). Thus, an automobile could be depreciated over 3 years. Additionally, the taxpayer may claim an investment tax credit. If, however, 50 percent or less of the use of the automobile is in the taxpayer's trade or business, the taxpayer must depreciate the automobile on a straight-line basis over the automobile's earnings and profits life. This is 5 years for an automobile. Additionally, the taxpayer may not claim any investment tax credit.

Generally, a taxpayer may deduct these expenses on the taxpayer's tax return. In addition, a taxpayer generally must report as income any reimbursement of expenses. If, however, the reimbursement equals the expenses, the IRS permits the taxpayer not to report the reimbursement as income so long as the taxpayer does not deduct the expenses.

*Explanation of provisions*

The bill would provide that any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural mail route can use a standard mileage rate that is 150 percent of the standard mileage rate otherwise applicable to automobiles that have not been fully depreciated. This 150-percent rate would apply to all miles the automobile is used to perform these services, whether or not the total exceeds 15,000 miles per year or 60,000 miles over 4 years. Thus, if the general standard mileage rate is 20.5 cents per mile, 150 percent of that rate would be 30.75 cents per mile. The bill would provide that an employee may not utilize the 150-percent rate for an automobile if the employee claimed the investment tax credit or depreciation deductions for that automobile.

The bill also would make inapplicable to these employees (if they do not use the standard mileage rate) the provision of the Code requiring that more than 50 percent of the use of the automobile be in the employee's trade or business in order to claim accelerated depreciation and the investment tax credit on the business use of the automobile. Thus, for example, an employee whose use of the automobile involving the collection and delivery of mail on a rural mail route is 20 percent of the

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[1] This document may be cited as follows: Joint Committee on Taxation, Description of H.R. 1884 Relating to Deduction for Use of Automobiles by Rural Letter Carriers (JCX-7-85), June 7, 1985.

total use of the automobile could, under this bill, claim 20 percent of the ACRS depreciation and 20 percent of the investment tax credit applicable to that automobile.

These two provisions would be effective for taxable years beginning after December 31, 1984.

The bill also provides that, for taxable years beginning before January 1, 1985, these employees may deduct as their expenses for this business use of their automobiles the amount received by these employees as equipment maintenance allowances from the United States Postal Service, except that these employees shall be permitted to compute the amount allowable as a deduction in accordance with the form entitled "Worksheet for Use of Rural Letter Carrier in Reporting Equipment Allowance and Claiming Transportation Expense Deduction" that was approved by the Internal Revenue Service in 1956 after being prepared by the National Rural Letter Carriers' Association. Thus, under this provision, an employee who was reimbursed by the Postal Service for those taxable years at 150 percent of the standard mileage rate would not have to report that reimbursement as income or claim the deduction on the employee's income tax return, because the deduction would be equal to the reimbursement. In addition, assessements of additional tax for those taxable years attributable to the reimbursement for business usage of the automobile exceeding expenses (where the IRS has not computed expenses in accordance with this Worksheet) would be terminated. Taxable years with respect to which the statute of limitations has expired would not be reopened.

Chairman RANGEL. The Subcommittee on Select Revenue Measures meets today to consider H.R. 1884, a bill to provide rules for computing an amount of deductions allowed rural mail carriers for use of their own automobiles.

We have some pressing problems. A lot of confusion has arisen as a result of the Internal Revenue Service granting a special formula for computing deductions for these people and the letter carriers' reimbursement by the Postal Service which shall not exceed 125 percent.

It seems the Internal Revenue Service changed the rules in the middle of the game and we are concerned about that. We have an obligation to these dedicated public servants and in addition to that, Ron Flippo and Ed Jenkins believe it makes a lot of sense to look into this matter.

Having said that, we have Guy Vander Jagt from Michigan. He is familiar with the problem, and I am glad he is here with us this morning.

Mr. VANDER JAGT. Thank you very much, Mr. Chairman, I am glad to be here, too. I didn't realize you had that vast number of rural letter carriers in your congressional district in New York, but I commend you and thank you for holding these hearings.

Chairman RANGEL. Running for majority whip makes me know I have a lot of them.

Mr. VANDER JAGT. You are taking the broader view.

So many of our colleagues on the committee have worked so hard on this problem and support H.R. 1884.

Apparently the Internal Revenue Service has changed the policy that was based on the 1956 understanding. This morning is our opportunity to find out, first, what that 1956 understanding was based on, second, why the Internal Revenue Service changed the policy and third, whether they applied it retroactively or prospectively.

I thank you and commend you, Mr. Chairman, for these hearings.

Chairman RANGEL. Thank you, Mr. Vander Jagt. I have a feeling Mr. Flippo has a couple remarks.

Mr. FLIPPO. Thank you, Mr. Chairman, I do.

First of all I would ask unanimous consent for Mr. Jenkins and any other member of the subcommittee who is not present to have a chance to file a statement for the record.

[Mr. Jenkins' statement follows:]

STATEMENT OF HON. ED JENKINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. Chairman, I greatly appreciate your taking the time to hold this hearing on H.R. 1884, legislation I coauthored with Mr. Flippo to remedy certain tax problems that have arisen for our nation's rural letter carriers. I would also like to take this time to welcome Mr. M. C. Stowe, a recently retired rural letter carrier from my district in Georgia who will be testifying on a panel today.

As you know, H.R. 1884 addresses a number of tax problems that have surfaced as a result of certain reimbursements from the U.S. Postal System to rural letter carriers. These reimbursements are necessary because, unlike regular postal carriers, rural carriers are required to own and maintain their own vehicles for the delivery of the mail. The Post Office reimburses these carriers for this service based on actual route mileage at a rate set to reflect actual costs to the carriers. This system has worked well for decades, and has saved considerable money for the Postal Service by their not having to provide government-owned vehicles and back up vehicles and by their not having to provide for direct vehicle maintenance in the remote rural areas of our nation.

To reimburse rural carriers for their vehicle expenses, each carrier receives an equipment maintenance allowance (EMA). The EMA is a certain amount of money per mile, and the carriers are reimbursed only for the actual miles that they have driven. Records for reimbursement are kept by the Postal Service based on the actual distance of the route and the number of times it is driven. More information on this point will be given by the testimony of the National Rural Letter Carriers' Association later in this hearing.

As will be pointed out and explained in greater detail in later testimony, rural letter carriers treat the EMA for tax purposes in one of two ways. Those who depreciate their vehicles and deduct actual expenses take the EMA into income and offset it with their expenses. Until recently, these letter carriers utilized a special formula that essentially increased the business percentage of their total vehicle miles. This formula was specifically approved by the Internal Revenue Service (IRS) in 1956 in recognition of the road and weather conditions that increase the wear on the vehicles of rural carriers.

The bulk of the rural carriers, however, do not use depreciation and actual expenses. Instead, they are deemed to have accounted to their employer for tax purpose and neither take the EMA into income nor take any deductions. This procedure is based on a 1958 revenue ruling. While most carriers would probably do better by taking depreciation and actual expenses, the majority prefer this method due to simplicity and the lack of annoying paperwork.

Both of these procedures have been used for over twenty years by rural letter carriers. Suddenly, however, the IRS reversed itself in late 1983 in regards to the 1956 formula for calculating business use of the vehicles of these letter carriers. In addition, the IRS took the position that the rural letters carriers no longer fell under the 1958 revenue ruling because their EMA exceeded 125 per ent of the federal standard reimbursement rate. No consideration was given to the provision in this revenue ruling that allows for a greater reimbursement rate in the presence of unusual circumstances.

The most troubling aspect of this change in policy by the IRS was that it was applied retroactively. As a result, a systematic audit was commenced early this year of all 66,000 rural letter carriers. In these audits, the IRS is examining returns for all open years as if the previous procedures for treating these expenses never existed.

I cannot tell you enough about the personal distress and panic that many rural carriers have experienced. Mr. Chairman, these men and women are basically law-abiding, hard working individuals. Most of them have treated their reimbursement allowance in the same manner for years and years, in a manner that they were let to believe was correct. I have spoken with a number of these carriers in my district in Georgia, and they are scared to death.

The bill I have introduced with Mr. Flippo would address these problems. First, the bill provides that, for tax years, beginning before 1985, rural carriers who used depreciation and actual expenses would calculate the business use of their vehicles

using the 1956 formula. Carriers who did not depreciate their vehicles would have the EMA treated as equaling expenses and in compliance with the 1958 ruling. This retroactive relief is in no way intended to provide relief to carriers who may have both depreciated their vehicles and excluded their EMA from income.

For the future, our bill seeks to provide rural letter carriers with a fair and reasonable treatment for their vehicle expenses and reimbursements. We are flexible on this point, though we believe it is imperative that some prospective solution is reached that recognizes the special situation that exists for rural carriers.

Mr. Chairman, we believe that our legislation is reasonable and solved a problem that is most unfortunate. Again, I thank you for taking this time to hold this hearing and hope that a prompt solution can be achieved. Thank you.

Mr. FLIPPO. Mr. Chairman, I deeply appreciate this hearing today. I know that it has not been easy for you to schedule this hearing. The full committee is holding hearings 4 days a week on tax reform leaving only 1 day a week to schedule business for the subcommittee. I know that in addition to that, that the chairman has been working day and night on the important work that the subcommittee is doing to make sure that tax reform benefits the working poor and low-income Americans.

I mention all this to emphasize how generous the chairman has been with his time and expertise, to all of us concerned about the tax problem of the rural carriers. This hearing today I think clearly demonstrates that you don't need a high-priced lobbyist to get the attention of the Subcommittee on Select Revenues, if working men and women have a tax problem they can count on the compassion and understanding and willingness of Chairman Rangel to deal with their problems.

The purpose of our hearing, of course, is to examine tax treatment of the equipment and maintenance allowance paid rural letter carriers. I would like permission to file my statement for the record in the interest of time, Mr. Chairman, and suffice it to say that we appreciate very much your consideration and I would like to file this statement.

Chairman RANGEL. Without objection.

[The statement follows:]

STATEMENT OF HON. RONNIE G. FLIPPO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Thank you Mr. Chairman. I deeply appreciate having this hearing today. I know it hasn't been easy for you to schedule this hearing. The full Committee is holding hearings four days a week on tax reform leaving only one day a week for Subcommittee business. I also know that in addition the Chairman has been working night and day on the important work the Subcommittee is doing to make sure tax reform benefits the working poor and low income Americans. I mention all this to emphasize how generous the Chairman has been with his time and expertise to all of us concerned about the tax problem of the rural carriers.

This hearings here today also demonstrates that you don't need high priced K Street lobbyists or a high powered government relations department to get the attention of the Select Revenue Subcommittee. If working men and women have a tax problem, they can count on the compassion, understanding and willingness of Chairman Rangel to deal with this problem.

The purpose of this hearing is to examine the tax treatment of the equipment and maintenance allowance paid to the rural letter carriers.

The U.S. Postal Service reimburses rural letter carriers for purchasing, equipping and maintaining their own vehicles in delivering the mail every weekday and Saturdays to 15 million rural Americans. The carriers are not reimbursed for commuting back and forth to work. Nor do the carriers have any discretion in determining the number of miles for which they are reimbursed. The rural mail routes are precisely measured and certified by each local postmaster.

The first equipment and maintenance allowance of 4 cents per mile was authorized by Congress in 1925. In subsequent years up to 1970, the EMA was changed almost every year by Act of Congress. Since the creation of the independent postal service in 1970, the EMA has been determined through negotiations between the carriers and the Postal Service based primarily on the price of gasoline.

This system appears to be very favorable to the government. The EMA payment allows the Postal Service to avoid the huge costs of maintaining a fleet of government owned vehicles throughout rural America.

The present EMA of 30 units per mile does not appear to be overly generous. The average rural carrier logs 18,000 miles per year in all kinds of weather and over all kinds of terrain.

The delivery vehicle must be specially equipped to handle heavy loads, frequent stops and starts and severe weather conditions. Almost every carrier also maintains a back up vehicle for emergencies.

The rural letter carriers have always been straight forward in seeking IRS guidance and direction in accounting for the EMA. The record is clear in this regard.

We now find that the Service has suddenly and without warning, changed the rules for reporting EMA. Not only has the Service changed the rules, they have decided to apply the new rules retroactively.

Mr. Chairman, the actions of the Service have not been fair. Without warning and, apparently without much foresight, the Service has attempted to audit virtually everyone of the 66,000 rural letter carriers for the 1981 to 1984 period.

Mr. Chairman, I along with Mr. Jenkins have introduced H.R. 1884 to address this problem. I am pleased that a majority of the members of the Ways and Means Committee and every member of the subcommittee except one have cosponsored this bill. This list of cosponsors is bipartisan and includes representatives from across the political spectrum.

The bill attempts to deal with the tax problem of the rural carriers both retrospectively and prospectively. It does not exempt the EMA from taxation as some have proposed. The bill would provide some certainty to the rural carriers in reporting the ERA payment and simplify the process for them.

Again, Mr. Chairman, thank you for this hearing today. I look forward to hearing the testimony.

Chairman RANGEL. Do any other Members seek recognition?

Then we will call Mr. Rollyson from Treasury. We have a copy of your statement. You may proceed in any manner that you think would expedite this matter.

## STATEMENT OF MIKEL M. ROLLYSON, TAX LEGISLATIVE COUNSEL, DEPARTMENT OF THE TREASURY

Mr. ROLLYSON. Good morning, Mr. Chairman. Thank you.

I will make just a few brief comments. You have the testimony, I will not read it at this point.

Basically there are—these provisions and the provisions of H.R. 1884 do relate to special rules for computing deductions, relating to the use of vehicles in the delivery of mails by rural letter carriers. There are really two points to the legislation that need to be focused upon. One relates to granting retroactive relief with respect to taxable years before 1985. The second relates to the proposal for certain special, more generous rules than are available to other taxpayers going forward for taxable years after 1985.

For the reasons that I will spell out, we are opposed to the provisions of the special rules for future taxable years for the rural letter carriers. On the other hand, we do believe the retroactive relief they seek would be warranted providing that it is slightly modified to insure that the relief is appropriate.

For past years the rural letter carriers were operating under the assumption that they could file their tax returns in accordance with a 1956 letter that was issued by the Director of Audit from the National Office of the Internal Revenue Service. This letter ap-

proved use by these taxpayers of more generous rules in computing their deductions for the use of their vehicles in delivering the mails.

In general, it permitted them to, in effect, multiply their business use of their vehicles by a ratio of anywhere from 1.5 to 2. That is, the general rule permits you to deduct only those expenses attributable to vehicles which are proportionate to your total use of a vehicle.

Now pursuant to the 1956 letter the rural letter carriers were entitled to, in effect, double the mileage that they claimed for business usage, that is if they had 10,000 of actual business usage in computing their proportionate deductions, they could double that amount.

That rule was issued from the National Office in recognition at those times that the rural letter carriers were incurring greater wear and tear on their automobiles by virtue of driving the roads that were in poor condition.

We do believe that it was proper for the rural letter carriers to follow the 1956 letter even though at a later point in time the Service changed the rules generally for computing deductions.

The 1956 letter was not actually revoked until September of 1984.

Therefore, we have—we did not oppose that provision of the bill which would give retroactive relief for those taxpayers who filed their returns in accordance with the 1956 letter.

I want to add, however, that we understand that there are a number of instances in which the rural letter carriers claimed deductions in accordance with the 1956 letter, but did not include in income the reimbursement from the Postal Service, therefore, getting a further unwarranted double benefit.

We think that that relief is not warranted. They should be entitled to, only to deductions computed in accordance with the 1956 letter and no more than that, and they should have included in income any amount taken as a reimbursement from the Postal Service.

With respect to taxable years after 1985, the bill would continue to provide the rural letter carriers with an inflated deduction assumption. In addition, it would relieve these taxpayers from the obligations of complying with certain of the limitations on the use of vehicles that were placed into the law in the 1984 act.

We believe that there is no justification for these special rules going forward. If indeed the rural letter carriers experience greater wear and tear and higher maintenance cost with respect to the automobiles, they are fully entitled to deduct those higher costs. They should not, however, be entitled to a special 150 percent of the standard allowance for mileage driven for business uses.

In addition, the bill would permit the rural letter carriers to take Accelerated Cost Recovery System deductions and Investment Tax Credit allowances even if their personal use was greater than 50 percent of the use of the vehicle. This would be directly contrary to the spirit of the 1984 act. Again we oppose those provisions as we think if we carve out special rules in this instance, then it will enable all other taxpayers with special circumstances to come in and petition for some relief.

So in summary, Mr. Chairman, that is our position on the bill and I would be happy to respond to any of your questions.

[The prepared statement follows:]

STATEMENT OF MIKEL M. ROLLYSON, TAX LEGISLATIVE COUNSEL, DEPARTMENT OF THE TREASURY

Mr. Chairman and members of the subcommittee, I am pleased to present the views of the Treasury Department on H.R. 1884. As I will explain in greater detail, the Treasury Department opposes the portion of the bill which provides rural letter carriers special rules to compute deductions for the use of vehicles in the collection and delivery of mail for taxable years beginning after December 31, 1984. The Treasury Department, however, would not oppose the relief which the bill affords rural letter carriers for taxable years beginning before January 1, 1985, if the bill were modified, as described below, to limit the scope of that relief.

CURRENT LAW

A taxpayer may deduct ordinary and necessary expenses paid or incurred in carrying on a trade or business. In addition, a taxpayer is generally entitled to claim depreciation deductions and the investment tax credit (ITC) for property used in a trade or busines. If a taxpayer uses property for both business and personal purposes, any allowable deduction or credit is prorated based on the ratio of business use to total use. For example, if an individual drives his automobile 20,000 miles during a year and 15,000 miles are for business purposes, he or she may claim 75 percent of the deductions that would be allowable if the vehicle were used solely for business purposes.

Limitations apply, however, in the case of certain property placed in service after July 18, 1984. For an employee to be entitled to any deduction or credit for property used in connection with his or her employment, use of the property must be for the convenience of the employer and required as a condition of employment. In addition, Congress has imposed limitations on the availability of the ITC and accelerated cost-recovery (ACRS) deductions for certain types of property susceptible to personal use, including automobiles and other means of transportation. Under section 280F(b) of the Internal Revenue Code, the ITC and ACRS are not available unless the property is used more than 50 percent for business purposes.

In lieu of any deductions for depreciation or actual expenses of operating an automobile, a taxpayer may elect to compute the deduction for the business use of an automobile by using the standard mileage allowance established by the Internal Revenue Service. The standard mileage allowance for any taxable year is 20.5 cents per mile for the first 15,000 business miles per year and 11 cents per mile for every business mile in excess of 15,000 miles. A taxpayer may claim the investment tax credit even if he or she uses the standard mileage allowance to compute the deduction for the business use of the automobile, unless the limitations described above are applicable.

If an employer reimburses an employee for miles driven in connection with the employer's business at the rate established by the standard mileage allowance, the Internal Revenue Service has ruled that the employee is not required to include the reimbursement in income if the employee claims no deduction for such business use. If the employee claims a deduction based on the standard mileage allowance or for operating expenses and an allowance for depreciation, however, the employee must include any reimbursement from the employer in income.

SPECIAL RULES FOR RURAL LETTER CARRIERS

In February 1956, the Director of the Audit Division for the Internal Revenue Service wrote to the Secretary of the National Rural Letter Carriers' Association sanctioning a special rule for rural letter carriers in computing their deductions for automobiles used in collecting and delivering mail. The special rule essentially allowed rural letter carriers to multiply their business mileage by a factor ranging from 1.5 to 2 in computing allowable deductions. The multiple was thought to be justified by the increased wear and tear caused by the poor condition of the roads which rural letter carriers were required to travel. The factor of 1.5 was allowable for carriers operating on average routes, while the factor of 2 was permitted "when bad roads and bad weather conditions prevail."

In September 1984, the Internal Revenue Service notified the National Rural Letter Carriers' Association that the multiples were not appropriate in computing

the business use percentage of delivery vehicles and that the agency was reversing the position set forth in the 1956 letter. The Service stated that the multiples were rendered obsolete by the subsequent publication of a general allocation method that assigns equal weight to business and personal miles (i.e., in Form 2106) and adoption of the standard mileage allowance.

H.R. 1884

The proposed legislation provides rural letter carriers with both prospective and retroactive special rules for computing deductions for the business use of their delivery vehicles. For taxable years beginning before January 1, 1985, a rural letter carrier may either claim a deduction equal to the "equipment maintenance allowance" paid to the rural letter carrier by the Postal Service during the taxable year or compute his or her deduction based on the arrangement described in the 1956 letter from the Internal Revenue Service.

For taxable years beginning after December 31, 1984, the bill permits a rural letter carrier either to use the standard mileage allowance or claim a deduction based on actual expenses plus depreciation. If the rural letter carrier opts for a deduction based on the standard mileage allowance, he or she may claim a deduction equal to 150 percent of the otherwise allowable deduction, but the ITC is not available in such case. If the rural letter carrier bases the deduction on actual expenses, the limitations of section 280F(b) which deny the ITC and the use of ACRS do not apply.

DISCUSSION

The Treasury Department would not oppose the portion of H.R. 1884 which provides retroactive relief to rural letter carriers for taxable years beginning before January 1, 1985, if this relief were modified to make it clear that relief is available only to the extent a letter carrier relied on the 1956 letter. We recognize that some taxpayers may have reasonably believed that the general rules were not applicable to them because of the Internal Revenue Service's stated position in the 1956 letter. Thus, if a rural letter carrier used the form which the Service sanctioned in the 1956 letter or computed deductions on the same basis without using the form, we believe retroactive relief is appropriate. Relief is not appropriate, however, to the extent a rural letter carrier either claimed a deduction in excess of that allowed under the 1956 letter or claimed a deduction in accordance with the letter, but failed to include reimbursement payments in income. With respect to those amounts, the rural letter carrier cannot be said to have relied on the Service's 1956 letter and retroactive relief is not appropriate. Therefore, we urge this Subcommittee to confine the pre-1985 rules contained in H.R. 1884 to cases where a letter carrier used the form which the Service sanctioned or computed a deduction on the same basis.

After 1984, when the Internal Revenue Service notified the National Rural Letter Carriers' Association that the 1956 letter was invalid, special rules for rural letter carriers cannot be justified. The standard mileage allowance represents an approximate per mile cost of operating a vehicle. The figure is an average of the costs of operating vehicles with different values in various parts of the country and includes the cost of gas, repairs, and insurance as well as an amount for depreciation. The Internal Revenue Service published this figure to provide taxpayers an alternative to computing a depreciation allowance and keeping track of actual expenses. If the actual costs plus wear and tear associated with operating a delivery vehicle on country roads exceeds the standard mileage allowance, rural letter carriers, like all other taxpayers, are free to claim a deduction for depreciation plus actual expenses. A special mileage allowance for rural letter carriers based on unverified assumptions as to greater costs on account of rural road conditions is unwarranted and invites other taxpayers to petition for special rules based on unusual circumstances.

Similarly, exempting rural letter carriers from the limitations of section 280F(f) is without merit. Congress enacted section 280F(b) to deny the benefits of the ITC and ACRS when business use of certain property does not exceed 50 percent, because these tax incentives are not warranted where the property was purchased primarily for personal purposes. This rationale is equally applicable to automobiles used by rural letter carriers. Under section 280F(b), if business use is not greater than 50 percent, the taxpayer is entitled to depreciate the property on a straight line basis. In the case of an automobile, the straight-line recovery period is five years. This method of depreciation, while not as generous as ACRS, typically is adequate to cover actual depreciation.

For these reasons, we oppose the special rules provided to rural letter carriers in H.R. 1884 for taxable years after 1984.

The existing rules generally applicable to other taxpayers are equitable and should apply equally to rural letter carriers.

This concludes my prepared remarks. I would be happy to respond to your questions.

Chairman RANGEL. Thank you.

Mr. Vander Jagt.

Mr. VANDER JAGT. As I understand it, you have no objection to that portion of the bill which prevents a retroactive application of the change of policy?

Mr. ROLLYSON. That is correct. As long as that retroactive relief is modified to insure that it does not grant relief to taxpayers who were claiming more than they should have been claiming under the 1956 letter.

Mr. VANDER JAGT. Do you have any estimate as to how much revenue you are talking about if——

Mr. ROLLYSON. We have not prepared a revenue estimate as yet. We do not have a revenue estimate as yet. We got the notification of this somewhat late but we would be happy to supply that estimate. We do not believe it would be significant.

Mr. VANDER JAGT. Do you have any ballpark estimate as to how much savings there is if we include the modification you suggest. Are you talking about a great deal of revenue?

Mr. ROLLYSON. No, sir; just an issue of fairness really is all we are talking about.

Mr. VANDER JAGT. Thank you.

Chairman RANGEL. Mr. Rollyson, on the question of fairness, I understand there are tens of thousands of post office workers that have gone through an audit and received all types of notices and that there has been quite an emotional experience on this.

How soon can you get something out to these people indicating the Service's posture?

Mr. ROLLYSON. I understand that there is currently a 30-day moratorium in place on all of the audits.

I would expect we would be able to get notification out very promptly as to how these cases are to be dispensed with.

All of the audits were put on suspense, that is on hold, on May 4, and we will notify those taxpayers under audit just as soon as possible as to the retroactive relief being granted.

Chairman RANGEL. Well, your statement can be made to their labor leaders and they are authorized to send notices out indicating that you are not seeking past damages where there is no abuse.

Mr. ROLLYSON. That is correct. I think it would be nice if we coordinated with the Rural Letter Carriers' Association in communicating to its members some information to assure that there is no miscommunication.

Chairman RANGEL. That is the best way to do it. These gentlemen are here and I hope that before these hearings are over that you get together and do it the best way to protect those people who are scared to death.

Mr. Flippo.

Mr. FLIPPO. Thank you, Mr. Chairman.

Mr. Rollyson, I do appreciate the Agency's position in regard to previous audits, but let me suggest to you that in previous discussions with the Treasury, Treasury recognized the unique characteristics faced by rural letter carriers to the extent that the Agency agreed in the 1956 letter that we are talking about that rural letter carriers would be entitled to 1.5 times the rate for, or permitted by the Agency which the Commissioner has the authority to do.

The same characteristics or uniqueness of conditions that convinced the Internal Revenue Service in 1956 that they were entitled to a greater than ordinary driving allowance still exists today. Those conditions still exist today.

I am wondering why you would oppose that for the future?

Mr. ROLLYSON. There may be some conditions that still exist today, I think there are two points that need to be made.

First of all, the conditions I think have changed significantly with respect to the condition of rural roads throughout the country in the last 30 years.

Second, when that letter was issued the option or approach of a standard mileage allowance had not been adopted. That letter preceded adoption of the standard mileage allowance.

The standard mileage allowance is available for all taxpayers and obviously there are taxpayers all throughout the country who do, in fact, have different circumstances. The rural letter carriers are one group of taxpayers that have different circumstances.

Now, we do not want to put in place a system where everyone comes in and seeks a different mileage allowance based upon their differing circumstances. The standard mileage allowance should be available to all taxpayers throughout the country equally.

If in fact the rural letter carriers do experience higher maintenance costs, wear and tear on their automobiles, they are fully entitled to keep deductions, keep records and take deductions for those higher-than-standard costs—that is, they can elect not to use the standard mileage allowance.

So I think the conditions and circumstances have changed significantly since 1956.

Mr. FLIPPO. Perhaps at some future time we will be able to dicuss those changed circumstances. But it just seemed that if the Service recognized the need at one time—I don't know how the roads are everywhere else—but there are still some pretty rough roads, and the average carrier is still driving a mileage route and stopping maybe at 440 boxes, and the way in which the vehicle is used, the extremely high maintenance that is required, seems to justify special consideration and we would like to pursue that.

I believe I would withhold my questions at this time, Mr. Chairman.

Chairman RANGEL. Are there any Members seeking recognition.

Mr. Dorgan.

Mr. DORGAN. Thank you, Mr. Chairman.

Mr. Rollyson, I am interested in finding out who the Internal Revenue Service audited once it determined the previous agreement would not be followed for current audits. I understand you decided you were going to move ahead and begin collecting some back taxes from rural letter carriers on the basis of your determi-

nation of how much they should be able to write off for these vehicles.

I know that you began a series of audits in North Dakota, I know you did it in South Dakota and Georgia and other States, but not in all States—possibly in half a dozen, or maybe a dozen States. Can you tell me how that approach was developed?

Mr. ROLLYSON. I have someone here from the Internal Revenue Service and let me see if they are aware.

It is my understanding that the disparity among States resulted from the fact that the Post Office began to report to the national office on the EMA Reimbursement Program and it was a decentralized audit program that various district directors—not at the National Office level—but different district directors around the country found this to be useful information and they started pursuing the audits at the district director level.

So it was not a nationally coordinated audit program from the national office in Washington, it was brought about in the various district offices as a result of the new information coming in from reporting from the post office.

Mr. DORGAN. But I assume the determination that the old agreement, which the Internal Revenue Service had developed with the rural carriers, would no longer be effective was made nationally, is that correct?

Mr. ROLLYSON. That was a decision made from the national office, yes.

Mr. DORGAN. So you have a situation in which the national people made a decision but if you lived in one State, you might be audited and in other States you may not be audited.

With respect to roads, let me just mention that I have an uncle who is a rural letter carrier in North Dakota and I have driven on almost all the roads that he used to deliver the mail. I think it would be real hard to make the case that there has been very much improvement in most of those miles of roads. Most of those roads or many of them are still gravel roads. You still have to stop at the boxes when it rains, and, in North Dakota, when it snows. You still have the same kind of effect on the vehicles now that you had in the 1950's. It is I agree, 30 years later, but at least with respect to the rural areas of America, there is not a whole lot of difference in the kind of roads the rural carriers are driving on, at least in the main in my judgment.

Did you mean to say that there were no new audits commenced after May 4?

Mr. ROLLYSON. No; there may be audits—they were put on hold.

Mr. DORGAN. The audits being done currently were put on hold as of May 4. Have there been any additional audits commenced after May 4? The reason I ask that question is I received a late night phone call about a week ago from someone who indicated that an audit was just being commenced at that point.

Mr. ROLLYSON. We don't know for sure, Congressman. Obviously there may have been audits commenced for other reasons and this happens to be one of the issues that comes up in the audits.

But we are—there should not be new audits being commenced specifically on this issue. But again let me remind you that there are instances in which the letter carriers were taking more than

was permitted even under the 1956 letter, and those issues I think will continue to be subject to audit.

Mr. DORGAN. I understand.

Mr. ROLLYSON. In other words, there were a number of instances as I understand it in which the letter carriers were taking deductions in accordance with the 1956 letter, and were getting reimbursed from the Postal Service and were not including the reimbursements in income. That type of situation will continue to be under audit.

Mr. DORGAN. I understand that, but I was trying to determine whether you at Treasury and the Internal Revenue Service decided that you had gotten into a kind of hornet's nest by the audits of people who felt they had an agreement on how to properly complete their return with respect to this item and whether you then decided that there would be no further audit activity until this issue was resolved, and whether you had communicated that to the district directors of the Internal Revenue Service?

Mr. ROLLYSON. I have a copy here of the telegram that was sent out to the district directors, to all district directors, to all Service Centers, and to all Assistant Regional Commissioners which says, please suspend examination activity of all rural letter carriers. We go on to give the estimated number of examinations at approximately 15,000 nationwide; at this time we are evaluating the different selection and scope of the examination criteria that is being used by the Service Centers and the districts, but please suspend examination activity of rural letter carriers.

Again we don't know exactly what has happened in every district, but that is the message that went out from the national office.

Mr. DORGAN. What is the date on that again?

Mr. ROLLYSON. May 4.

Mr. DORGAN. As of May 4 ostensibly there would not have been new audits commenced on advice of the letter from the national Internal Revenue Service office, is that correct?

Mr. ROLLYSON. That is correct. Assuming that the audit was not commenced for other issues.

Mr. DORGAN. All right. I appreciate your response.

I know it is difficult for the Internal Revenue Service in these issues but by the same token, having been involved in tax enforcement for nearly a decade myself, I know that when you commmence an audit program in which you move in a direction that seems contradictory to a previous agreement with a group of taxpayers, you are going to get involved in a whole lot of trouble. I think that is what the case is here.

We appreciate the testimony from Treasury. Thank you very much.

Chairman RANGEL. Mr. McGrath.

Mr. MCGRATH. No questions, Mr. Chairman.

Chairman RANGEL. Mr. Anthony.

Mr. ANTHONY. Thank you, Mr. Chairman.

My first question, and you may have to refer to your Internal Revenue Service friend to answer this, concerns the status of Arkansas as far as——

Mr. ROLLYSON. Arkansas' audits?

Mr. ANTHONY. Yes.

Mr. ROLLYSON. The only knowledge we have, Mr. Anthony, is that all of those audits have been suspended.

Mr. ANTHONY. My question is, then, were they included with the other States?

Mr. ROLLYSON. The telegram I just read requesting all district directors and regional commissioners suspend the examinations did apply to Arkansas equally as with other States.

Mr. ANTHONY. You probably cannot give me this figure now, but could you supply for the record the number of audits that have been suspended in the State of Arkansas for rural letter carriers?

Mr. ROLLYSON. We would have to get that information from the district director.

Mr. ANTHONY. Write me a letter or give me a call and give me that information.

Under the terms of the bill you state that you would be in opposition to allowing accelerated cost recovery system and investment tax credit if it falls below the 50-percent level. You state that on a fairness basis.

Mr. ROLLYSON. Yes.

Mr. ANTHONY. Could you argue that because they are using personal property for public service that fairness would also be an exception?

What we are trying to say is that if they use the vehicle 20 or 30 percent of the time they could only claim 20 or 30 percent of the depreciation and investment tax credit. We are not saying they would get the full amount.

Mr. ROLLYSON. Well, as you know when we went through the 1984 act, Congress made the decision that the incentive awards essentially provided under accelerated cost recovery system and investment tax credit are designed to stimulate investment in particular types of property and Congress made the decision that those incentives were not necessary and should not be available in those cases where personal use of the property was greater than 50 percent.

Now, I think we have to recognize that the accelerated cost recovery system combined with the investment tax credit does provide a significant incentive and if the letter carriers are not eligible for accelerated cost recovery system and investment tax credit when personal use is greater than 50 percent, they are still entitled to take depreciation deductions based on the straight line method, which, in general, is more than adequate to cover the actual depreciation.

Let me just add a footnote here that in the context of simplification and tax reform we think it is very ill-advised to begin carving out special rules for those classes of taxpayers who might argue that they have some limited special circumstances.

We think it will lead to the same request from other taxpayers and obviously that would lead to additional complexity.

Mr. ANTHONY. Thank you. I yield back my time.

Chairman RANGEL. Thank you.

Thank you very much.

Now we have a panel: Tom Griffith, national president of the National Rural Letter Carriers' Association; Donnie Pitts, vice

president of the Alabama Rural Letter Carriers' Association; M.C. Stowe, Jr., member of the Georgia Rural Letter Carriers Association—Ed Jenkins told me to send his regards to you.

Harold Williams, vice president, local unit of the California Rural Letter Carriers Association; Jim Cleveland from the sovereign State of New York; and Maurice Slusher, State steward for the Virginia Rural Letter Carriers Association.

Gentlemen, we have received your testimony. By unanimous consent, we will place it in the record. I think you can see from the line of questioning that we understand the problem, so I would ask you to highlight the direction that you would like to give to this committee.

## STATEMENT OF TOM W. GRIFFITH, NATIONAL PRESIDENT, NATIONAL RURAL LETTER CARRIERS' ASSOCIATION

Mr. GRIFFITH. Thank you, sir.

Chairman RANGEL. You may proceed.

Mr. GRIFFITH. Mr. Chairman, my name is Tom Griffith, I am president of the 66,000-member National Rural Letter Carriers' Association. We serve the rural population and suburban population of this country by delivering their mail. We are extremely grateful that you offer us this opportunity to appear before the subcommittee this morning on a problem that is of great concern for rural carriers.

The problem is the unfair audits being made by the Internal Revenue Service for the reimbursement which we receive from the Postal Service for use of our privately owned vehicles to deliver the mail.

We have presented a prepared testimony and I will attempt to review that testimony and summarize it as you have requested. I do have one correction in that prepared testimony that I want to draw attention to.

The rural carriers serve as post offices on wheels around this country. We offer every service a person can get in the post office itself. We sell stamps, we collect and deliver parcels, and patrons can register letters on the route and so on, so we are a very important arm of the Postal Service.

I think it is important to understand some of the historical background of our craft in the Postal Service. Before 1970, Congress controlled the finances of the Post Office Department. You, the Congress, determined that rural carriers should be reimbursed for providing and maintaining vehicles to deliver the mail. Those rates were determined by Congress and those rates were higher than the Internal Revenue Service standard mileage allowance at that time.

The reason, of course, you approved the system was to provide for cheaper and more efficient Government operation. The rural carriers are required to provide their own vehicle, it is their obligation to provide a backup vehicle in many instances and they have the obligation to complete the route even on days that their vehicle might break down.

They have to provide a full, complete service to their route. The Postal Service does not accept that responsibility. It is the responsibility of the rural carrier.

We relieve the Postal Service of the task of having to approve and authorize thousands of repair facilities in rural America, as well as repair orders daily that they would have to require. Rural carriers have that responsibility of taking care of their own vehicles. We maintain backup vehicles and all-weather vehicles in many cases. We provide the actual equipment such as chains, snow tires and so on.

Gentlemen, this system has worked fine for 80 years. Rural carriers have delivered the mail over unpaved roads in all kinds of weather, and most of the customers are more than satisfied with the service that we provide.

In 1956, the National Rural Letter Carriers' Association took the issue of claiming transportation expenses and reporting the EMA reimbursement to the Internal Revenue Service. The Director of the Audit Division approved the use of a form and mileage factor for rural carriers in claiming transportation expense deductions. The mileage factor is a ratio of the cost of driving one mile on the average rural mail route as compared with the cost of driving one mile for average personal use.

The factor was determined by consideration of the substandard road conditions, the number of stops per mile and the general climatic conditions involved in delivering the mail. The general average factor was 1.5. There are special revenue rulings over a period of years upon which rural carriers have relied in making their returns.

The Revenue Ruling 58-453 held that an employee who was paid for ordinary and necessary business expense occurring in travel, using a fixed mileage allowance authorized and paid for by the Federal Government in a locality in which travel is performed will then be deemed to have required to account to his employer for such expenses.

We interpret this to mean that rural letter carriers were accounting to the Postal Service and to the Congress for a mileage allowance as a rural letter carrier.

Revenue Rule 62-82 amplified the 1958 ruling and mentions the 1941 and 1955 ruling, and that ruling states, and may I quote,

> In view of section 1.162 of the Regulations and Revenue Ruling 58-453, it was held rural mail carriers are considered as having accounted to their employer for their business expenses for the purpose of section 1.162 of the regulation.
>
> No accounting will be required on Federal income tax returns for such allowances or the expenses covered thereby if the total amount of the allowances does not exceed such expenses.

That is the end of the quote.

Whereas there were previous and subsequent revenue rulings, it is clear that this ruling definitively states that rural carriers are considered as accounting to their employer and do not need to account for the reimbursement on their tax returns.

This is the basis upon which NRLCA members relied when dealing with the Internal Revenue Service. Subsequent rulings are consistent in treating rural letter carriers' reimbursements.

In 1983, December, the Postal Service wrote back to Assistant Commissioner Woodward of the Internal Revenue Service stating, and I quote,

Since it has not been the requirement in past years and due to the short period of time before W-2s must be issued for 1983 and the necessity of major changes in the system, we cannot honor the request until calendar year 1984.

That was—that answer was as a result of the Internal Revenue Service notifying the Postal Service that they would be required to include the expense money, the EMA on their W-2 form for the year 1983.

The Postal Service said they could not do it. They couldn't get geared up for it.

They further stated they would make the necessary changes in payroll and W-2 systems. They would notify the National Rural Letter Carriers' Association that, beginning in January 1984, rural carriers would have to keep proper records for deduction of expenses because the EMA will be included on their W-2 forms as "other compensation."

The Association wrote to Assistant Commissioner Woodward and requested a meeting to discuss this issue with him. Frankly, at that meeting we found no consideration for the Internal Revenue Service's approval of the 1956 weighted factor form. We found no consideration of the historical precedent set by the Revenue rulings which we cited and, in fact, we found that simply Internal Revenue Service had made up their mind, that our reimbursement would be counted as other income in spite of any historical evidence that was available to him.

After that meeting in September 1984, we received a letter in which the Internal Revenue Service specifically said that the formula approved in 1956 was no longer applicable and that the Internal Revenue Service cannot accept the 1956 formula for computing vehicle maintenance percentages.

They requested us to present this information to our membership. That occurred September 5, in our next newsletter, we notified the membership in our September 15, 1984 newsletter.

Chairman RANGEL. Is that it?

Mr. GRIFFITH. I want to make one correction on the prepared testimony, Mr. Chairman, and then I will defer to the other members.

On page 10 of the prepared testimony, Mr. Chairman, I believe it is page 10, the last sentence in the paragraph at the top of the page, it lists that under the current contract—speaking of our national agreement—for each 6 cents that gasoline goes up or down, EMA goes up or down by 1 cent a mile. I would like to have that corrected to read a half cent per mile rather than 1 cent per mile.

Mr. Chairman, and Members, I will conclude my remarks in the interest of time with that.

I would welcome any questions from you or perhaps the chairman would prefer my fellow carriers to offer their brief testimony before questioning all of us.

[The prepared statement follows:]

STATEMENT OF TOM W. GRIFFITH, PRESIDENT, NATIONAL RURAL LETTER CARRIERS' ASSOCIATION

My name is Tom W. Griffith, President of the 66,000-member National Rural Letter Carriers' Association, who serve 15 million American families by daily traveling 2,387,951 miles over 38,925 rural routes throughout the country.

Good morning, Mr. Chairman and Members of the Subcommittee. We are extremely grateful for the opportunity to appear before this Subcommittee on a prob-

lem of great concern to all rural letter carriers. That problem is the unfair audits being made by the IRS on the reimbursement which we receive from the United States Postal Service for the use of our personal automobiles to deliver the mail.

We are deeply indebted to Congressmen Flippo and Jenkins for their compassion, concern, and great legislative skills which they have brought to bear on this problem. We are also grateful to: Chairman Rangel, Mr. Dorgan, Ms. Kennelly, Mr. Fowler, Mr. Matsui, Mr. Anthony, Mr. Campbell, Mr. Thomas, Mr. McGrath, and all Members of this Subcommittee for co-sponsoring this bill and supporting our efforts to achieve fair tax treatment.

Rural letter carriers operate as a post office on wheels, providing all the services of a local post office—stamps, parcels, express mail, registered mail, certified mail, and money orders. The average rural carrier has a route 62 miles in length with 440 boxes.

We have always used our own vehicles to deliver the U.S. Mail from horse and buggy days to the present. I have an article from the 1905 R.F.D. magazine in which a carrier complains because he was only being reimbursed for two horses. Everyone knew you needed a spare to do the job.

It is important to understand the historical perspective of the craft and the post office. Before 1970, Congress controlled the finances of the Post Office Department. You, the Congress, determined that rural letter carriers should be reimbursed for providing and maintaining vehicles to deliver the rural mail. The rates determined by Congress were higher than the IRS-Standard Mileage Allowance.

The reason you approved this system was to provide cheaper, more efficient government. It also cut down on capital expenditures by the USPS. Small post offices are relieved of the responsibility of maintaining and repairing a fleet of vehicles, because each rural letter carrier has that responsibility. The carrier has the obligation to provide a back-up vehicle and complete their route if a breakdown occurs. The Postal Service does not accept this responsibility.

In urban areas, the USPS operates vehicle maintenance facilities for their own vehicles. This is impractical in rural areas. In fact, in many rural areas, there is little commercial competition for auto repairs. The USPS assumes that Tom Griffith, rural carrier and local citizen, can get repairs done for less dollars than the USPS—the Federal Government.

The USPS is relieved of the task of approving/authorizing thousands of repair facilities in rural America, and repair orders daily. Rural letter carriers have the responsibility.

We maintain back-up and all weather vehicles and necessary equipment; chains, snowtires, etc.

The system has worked fine for over 80 years. Rural carriers have delivered the mail over unpaved roads in all kinds of weather and most of their customers are more than satisfied with our service.

In 1956, the NRLCA took the issue of claiming transportation expenses and reporting the Equipment Maintenance Allowance Reimbursement to the I.R.S. The Director of the Audit Division approved use of a form and mileage factor for rural carriers in claiming their transportation expense deduction. The mileage factor is the ratio of the cost of driving one mile on a rural mail route as compared with the cost of driving one mile for average personal use. The factor was determined by consideration of the sub-standard road conditions, the number of stops per mile, and general climatic conditions. The general average factor was 1.5.

There are specific revenue rulings over a period of years upon which rural letter carriers relied in filing their returns.

Revenue Ruling 58-453 held that an employee who was paid for ordinary and necessary expenses incurred for travel, using a fixed mileage allowance authorized to be paid by the Federal Government in a locality in which the travel is performed, will then be deemed to have been required to account to his employer for such expenses.

We interpreted this to mean rural letter carriers were accounting to the USPS and the Congress for a mileage allowance.

Revenue Ruling 60-282 amplified the 58 ruling and mentions the 1941 and 1955 rulings. The ruling states:

"In view of Section 1.162-17(b) of the regulations and Revenue Rulings 58-453, it is held RURAL MAIL CARRIERS are considered as having accounted to their employer for their business expenses for the purposes of Section 1.162.17(b) of the regulations. No accounting will be required on their federal income tax returns for such allowances or the expenses covered thereby if the total amount of the allowances does not exceed such expenses."

Whereas, there were previous and subsequent Revenue Rulings, it is clear this ruling definitely states Rural Carriers are considered as accounting to their employer and do not need to account for the reimbursement on their tax returns.

This is the basis upon which NRLCA members relied when dealing with the IRS. Subsequent Rulings are consistent in treating rural letter carriers' reimbursements.

The stop and go delivery of mail along rural routes, and the repair and maintenance of vehicles to perform that service, are special circumstances. The U.S. Postal Service, a branch of the Federal Government, recognized this for 80 years. We do not understand why it was so startling to the IRS in 1983.

We are asking this Committee to find a legislative solution to a problem which first arose in November of 1983. The U.S. Postal Service received a letter from the Internal Revenue Service stating that Equipment Maintenance Allowances paid by the U.S. Postal Service to rural letter carriers had not been included as "other compensation" on the employee's W-2 Forms. After a review, the IRS felt the EMA payment should be listed as "other compensation". They asked the Postal Service to comply immediately.

In December of 1983, the Postal Service wrote back to Assistant Commissioner Woodard of the Internal Revenue Service stating, "Since this has not been a requirement in past years, and due to the short period of time before W-2's must be issued for 1983 and the necessity of major system changes we cannot honor the request until calendar 1984". They further stated that they would make the necessary changes in the payroll and the W-2 systems. They would notify the National Rural Letter Carrier's Association, that beginning January 1, 1984, rural carriers would have to keep proper records for the deduction of expenses because the Equipment Maintenance Allowance will be included in their W-2 systems. They would notify the National Rural Letter Carriers' Association, that beginning January 1, 1984, rural carriers would have to keep proper records for the deduction of expenses because the Equipment Maintenance Allowance will be included in their W-2's as "other compensation".

The NRLCA wrote to Assistant Commissioner Woodard and requested a meeting to discuss this issue with him. Frankly, at the meeting, we found no consideration for the IRS's approval of the 1956 weighted-factor form. We found no recognition of the historical precedence set by the Revenue Rulings, which we cited, and, in fact, what we found was that simply, the IRS had made their mind up that our reimbursement was going to be counted as "other income" in spite of any historical precedence and evidence which was available to them. After that meeting in September 1984, we received a letter in which the IRS specifically said that the formula approved in 1956 was no longer applicable and that the IRS cannot accept the 56 formula for computing vehicle business percentage use.

They requested us to present this information to our membership in our next newsletter. That occurred September 5, 1984. We so notified the membership in the September 15, 1984 newsletter.

Simultaneously in 1984, we began discovering that the Internal Revenue Service was apparently conducting a systematic audit of all rural letter carriers in the United States. However, obviously, since it was 1984, they could not be auditing them for their 1984 returns as they were not due to be filed until 1985. What, in fact, we found was that the Internal Revenue Service was auditing carriers for 1983, 1982, and 1981.

In light of the evidence which we have presented to this Committee, we respectfully say that what the IRS was doing was patently unfair. That is, to audit rural letter carriers retroactively instead of prospectively, after we had been notified of a change in policy.

And so, Mr. Chairman and Members of the Committee, this bill will grant relief to rural letter carrier taxpayers from these ill-conceived and unfair tax audits. Two filing types are covered in the bill. The first group would be those who used the 1956 weighted factor formula. Under Section 1(b)(2) of the bill, that formula would be considered as having been a valid means of filing one's taxes since there was no prior notice before September 1984, that the IRS was disallowing such formula. And two, for a rural carrier who did not claim any depreciation and actual expenses, the Equipment Maintenance Allowance shall be deemed as equaling actual expenses under Section 1(b)(1). Prospectively, Section 1(a)(1)(A) provides for carriers who don't use depreciation and actual expenses, the EMA shall be 150% of the standard mileage allowance for all business miles.

Some carriers live a considerable distance from their post office. The daily drive to pick up mail and return home is not deductible as business miles. If a carrier in North Dakota lives 30 miles from the post office, has an average route of 62 miles and uses the car once on Saturday to get groceries, that carrier could not claim

I.T.C. (Investment Tax Credit) or A.C.R.S. (Accelerated Cost Recovery System). His business miles would be under 50%. This situation is not universal, but does occur in the Western Plain States frequently. Section 1(a)(1)(B) corrects that injustice.

This is a good piece of Legislation which we recommend the Committee pass into law. We justify it a number of ways. Most rural carriers' cost is just about at the reimbursement level. This is because, as I have stated earlier, of the unique maintenance problems in rural areas. By paying rural carriers to maintain their own automobiles, the U.S. Government, the Postal Service, anyone who mails an envelope or package is actually saving money by the current system. Almost every rural carrier maintains more than one vehicle, and in some severe weather areas, one of them will be an expensive all-weather, four-wheel drive vehicle. Almost all rural carriers do their own minor repair work. Brake shoes wear out more frequently due to repeated stops that rural carriers are required to make in delivering the mail. So, most rural carriers learn to do brake work themselves—they learn to perform minor tune-ups on their vehicles. They must repair and replace their tires more often than normal. Fifty-thousand mile guaranteed steel belted radial tires on a rural mail vehicle generally last a mere 20,000 miles. Most rural carriers replace brake shoes every three to four months. Transmissions overheat. Cooling systems fail and, generally, rural mail delivery is doubly hard on a vehicle than is personal driving or any other type of business use. Our vehicles depreciate faster. Would you want to buy a mail carrier's used car?

Lastly, we offer this fact for the Committee's consideration. The U.S. Postal Service and the National Rural Letter Carriers' Association negotiate their National Agreement, and EMA is part of that negotiation. We present facts to justify our claims for increases during bargaining. In the current contract, for each 6¢ that gasoline goes up, or down, EMA goes up or down by ½ cent per mile.

In the 1981 contract, the Postal Service won a concession from this Union giving them the option to put up to 13,000 vehicles on rural routes as a means of testing whether it was cheaper to operate USPS owned or leased vehicles, or to continue with the present system where rural carriers purchase, repair, maintain and provide back-ups for their vehicles and receive the Equipment Maintenance Allowance.

Since 1981, the Postal Service has put approximately 550 vehicles into service. There are approximately 38,900 rural routes. They have the ability to put in 13,000 vehicles, which is more than one-third of the routes. They have elected only to put in 550, that speaks more eloquently than we can to the economy and efficiency of the existing system.

Mr. Chairman, Members of the Committee, we certainly appreciate your indulgence in listening to our testimony, and your consideration in giving us a hearing on this bill. We are, indeed, very grateful to Mr. Flippo. Mr. Jenkins, Mr. Campbell, all the Members of this Committee for their consideration and co-sponsorship. If the current system were not working so well, we suspect that the Postal Service would have placed in service many of their own vehicles. The current system has worked for 80 years. All we are saying is that the Internal Revenue Service should recognize it. Congress recognized it long ago. Congress has been supportive throughout the years of rural letter carriers, the Postal Service and this system whereby we supply, maintain and operate our own vehicles, and we again express to you our gratitude.

That concludes my remarks. I would welcome any questions or, perhaps, the Chairman would prefer my fellow carriers to offer their brief testimony before questioning all of us.

Chairman RANGEL. Do your colleagues have any contribution to make?

Why don't we proceed. Donnie Pitts.

## STATEMENT OF DONALD PITTS, VICE PRESIDENT, ALABAMA RURAL LETTER CARRIERS' ASSOCIATION

Mr. PITTS. I am Donnie Pitts, I am from Alabama, and vice president of the Alabama Rural Letter Carriers' Association. I am proud to say I am from Florence, AL, which is the home of Ronnie Flippo. We have 1,851 members in the State of Alabama at the present time. My rural route is 68 miles in length and I have 484 boxes. This causes about 460 stops per day.

I travel on several gravel roads and their conditions contribute greatly to the depreciation, upkeep, and high cost of operating my vehicle.

In 1984, I drove a total of 27,656 miles, with 18,021 of these miles used in delivering the mail. I live about 15 miles from my work area, and this totals an additional 7,980 miles that are job-related. I use my car 94 percent of the miles driven for job-related purposes, but was only able to claim 65 percent on my taxes.

In 1984, I received $5,633.46 as EMA from the Postal Service for use of my car. I had a total deductible expense of $3,407.36 for upkeep and repair in that same time period. As a result, I had additional taxable income of $2,226.10. My 1981 car is still being used on my route, and, therefore, I get no depreciation. This is because in 1982, at 49,000 miles, before the extended service plan expired, they had to replace the engine and, therefore, in 1982 I got a new car in every sense except for depreciation.

In 1981, when I bought my present vehicle, I was able to buy an extended service plan. Now the extended service plans no longer cover vehicles used on rural mail routes, which are considered a business purpose. This will lead to higher operating costs in the future because I will incur all the expenses, even if it is the result of defective parts or workmanship.

A new vehicle lasts no longer than 3 years on the average route. They also have to be modified for route use; that is, the back seats taken out, mail trays attached to the dash, et cetera.

I would like to say that the Postal Service has its own inspection of rural vehicles. The Postal Service standards are higher than State standards on several items. They will not allow us to use a car that has a cracked windshield, glass or tail light. The tread depth must be above 3/32nds on tires, and all these factors contribute to the higher cost of operation.

Also, in my travels over the State during the past year, I have heard from numerous members who have been audited for years 1982 and 1983. In one case, a carrier from Randolph, Alabama had to pay over $4,000 in back taxes because of the EMA audit. I myself have also been audited for the years mentioned above, but to date, I have not received a bill as to how much tax I owe.

Mr. Chairman and members of the committee, I want you to know that everybody in my part of Alabama is very proud of our outstanding Congressman Ronnie Flippo. All the Alabama rural letter carriers are very indebted to him for his leadership on this issue.

Thank you very much.

Chairman RANGEL. Which one is Flippo?

Thank you, Mr. Pitts.

Mr. Stowe.

## STATEMENT OF M.C. STOWE, JR., MEMBER, GEORGIA RURAL LETTER CARRIERS' ASSOCIATION

Mr. STOWE. Mr. Chairman and members of the subcommittee. I am M.C. Stowe, a member of the 2,500 Georgia Rural Letter Carriers' Association; more specifically, I am from Eastanollee, Georgia, which is located in Congressman Jenkins' district.

I am also grateful for the opportunity to appear before this committee. I was privileged to be an active rural carrier for 35 years—January 1950 to January 1985. Neither I nor the substitute rural carrier missed a delivery day during that time.

Definitely having four seasons in Northeast Georgia, you have to have the necessary equipment to live up to the above record and the motto that no kind of weather keeps the mail from being delivered.

It was necessary for me to have a mail car and a backup vehicle. I had a garage to house these vehicles and to do minor repairs. Sometimes it was necessary to make repairs in the evenings, even soliciting the help of my Postmaster, so that the mail would be delivered the next day.

Besides spare tires, I had two sets of mounted tires—one set with metal studs for use on ice, and one set with new chains for snow. A set of chains would last for one day on a rural route. I had a 1.5-ton hydraulic jack, an air compressor and an air wrench so that tire changes could be made in a matter of minutes.

It was seven miles to the nearest garage that offered these services. There was no time to go to a garage in changing weather.

Last week I sold my mail car. The book says it was worth $1,500. I kept advertising and reducing the price the last two weeks. It finally sold when the price was reduced to $800. The market is very poor for a used mail car.

From 1950 to 1984, we were advised that no accounting was required on our Federal income tax returns for equipment maintenance allowance. Then, in February of this year, I received a letter from the Internal Revenue Service, stating that the equipment maintenance allowance I was reimbursed in 1982 and 1983, was to be included in my income.

It is difficult to verify expense accounts retroactively unless you are aware at the time of the need.

I have a neighbor carrier, Roy Smith of Nicholson, GA, who has received a $116 rebate from his 1983 audit. His expenses had exceeded his equipment allowance by this much. There are times in using your car when the car is idling you read notes, such as the one I am fixing to tell you about.

I received a note from a patron, a widow lady, about the size of this sheet here, and she began by asking me who the patron was across the street. And the reason she wanted to know about the patron across the street, she wanted to give them some religious literature.

She went on to explain the reasons she didn't go ask the neighbor was he had a dog and the dog chased the motor bike that was driven by another neighbor's boy from down the street. She filled up the whole page and up the side put PS, never mind giving me the neighbor's name, I will ask him his name when he comes over to visit me.

Then another stop and you take the letter out of the box, and the 22 pennies for the postage, and another note that says, will you please seal this envelope, I did not have time to seal it before you came along.

Thank you.

Chairman RANGEL. Mr. Williams.

## STATEMENT OF HAROLD WILLIAMS, VICE PRESIDENT, UNIT 10, CALIFORNIA RURAL LETTER CARRIERS' ASSOCIATION

Mr. WILLIAMS. Mr. Chairman, members of the subcommittee, I am Harold Williams. I have been a rural carrier in Corona, CA, for 23 years.

I drive a 1983, four-door, six-cylinder Ford Fairmont. My standby vehicle is a 1977 Chevrolet Nova.

My route was 44.8 miles, with 385 boxes, which was adjusted to 38.4 miles with 368 boxes in April 1984.

My roads are all paved. However, due to boxes on sections of the route being set back 6 to 8 feet, I still drive along dirt shoulders of roads much of the time.

Transmission coolers, a heavy-duty radiator, and clutch or flex fan is absolutely necessary in the summer.

Michelin steel-belted tires, with warranty of 40,000 miles, last 21,000 to 22,000 miles. The warranty on tread wear is void, as dealers consider rural route use as commercial use.

Excessive heat, due to frequent stops, tend to burn or cause hot spots in brake drums, making drum replacement necessary. This can cause a car to violently pull to the right or left when you apply the brakes.

This year, due to boxes set back too far from the pavement, in wet weather I have had to use mud tires on the front and rear wheels to prevent the front end of the car from sliding into mailboxes. As soon as all four wheels leave the pavement in wet weather, the car will slide sideways into a ditch or boxes without all four tires having good mud-type tread.

Another problem that I have and others have, in wet weather during heavy rain, much of my roads and approaches are flooded. Since most of my route is composed of dairies, the water comes from cow corrals. The cow manure in the water tends to build up around the brake linings and heat from the brake drums bake it. This keeps brakes from releasing and causes over-heating of the break lining and drums.

I have a list of expenses, my gas is $1,060. Engine oil and filter was $444.66, for parts only, I did my own labor. Tires, I replaced 4 tires, mounting and balancing was $381.91. I purchased two spare rims for my mud tires, $31.80. I replaced the rear shocks, $70.85. Service to repack the front wheel bearings, $25.

Replace the rear axle and bearing, $150.93. Rebuild rear wheel cylinders and new lining and turn drums, $193.97.

I replaced the upper and lower radiator hoses, $18.74. Install oil and temperature gauges, the original red lights were not dependable, $75.72.

Replace the battery, $75.18.

Replace turn signal flasher unit, four turn signal bulbs and one headlight bulb for $26.04.

Three air filters, $6.

Service the transmission, at $30.55. I have installed transmission cooler, $90, parts only, I did the labor.

My insurance is $632. I depreciated the car at $1,193.

My equipment maintenance allowance I received was $4,061.72. My total expenses, $4,106.35. I have a loss of about $35 there.

Thank you. I appreciate the opportunity to be here.

Chairman RANGEL. Thank you.

Mr. Cleveland, from the New York Rural Letter Carriers' Association. Where are you from, sir?

Mr. CLEVELAND. I am from Pulaski, NY, north of Syracuse.

Chairman RANGEL. You may proceed.

## STATEMENT OF JAMES N. CLEVELAND, PRESIDENT, NEW YORK RURAL LETTER CARRIERS' ASSOCIATION

Mr. CLEVELAND. My name is James Cleveland. I would like to thank Mr. Rangel for your early support and leadership in this endeavor. I am president of the New York Rural Letter Carriers' Association, which has 1,400 routes and about 2,400 members. My route is 55 miles long and has approximately 440 families, and I drive about 15,000 miles a year. My backup car is the family car.

Pulaski is in upstate New York. In the winter we average 150 to 200 inches of snow per season. "Lake-effect" storms, dumping 1 to 2 feet of snow in 24 hours, is not uncommon.

My gas consumption is approximately 6 gallons per day, meaning about 8 to 9 miles per gallon.

Front brake pads last approximately 7,000 miles. The rear shoes last about 9,000 miles. My repairs and lube jobs were done by garages in the last 2 or 3 years because of the IRS rulings on expense.

My 1983 EMA, or equipment maintenance allowance was $4,460, and my gasoline cost was $3,215. Unusual repairs and expenses were dismantling a transmission and front-wheel brake bands for a total of $804. My total expenses for 1983 were $6,745. My loss on EMA was $2,285.

For 1984, my EMA or equipment maintenance allowance was $4,084. My gasoline cost was $2,360. My total expenses for 1984 were $5,723, and my loss was $1,638.

Mr. Chairman and members of this committee, thank you for the opportunity of appearing before this committee hearing.

Chairman RANGEL. Our last witness is Mr. Slusher, State Steward of the Virginia Rural Letter Carriers.

## STATEMENT OF MAURICE T. SLUSHER, STATE STEWARD, VIRGINIA RURAL LETTER CARRIERS' ASSOCIATION

Mr. SLUSHER. Mr. Chairman and members of the subcommittee, my name is Maurice Slusher, and I appreciate the opportunity to appear before the committee and give brief testimony this morning on H.R. 1884.

I have a total of 38 years of postal service over which the last 23 years have been spent as a rural letter carrier.

The route that I serve is located in the Southwest part of the State of Virginia. The route length is 88.5 miles, which traverses hilly terrain, and half my route mileage is unpaved roads. To provide service to the approximately 1,500 customers requires the serving of 445 rural mailboxes, and necessitates a minimum of 430 stops each day.

Living in the Blue Ridge Mountains, where the elevation is above 2,200 feet, the climate becomes adverse during the winter months with ice and snow storms. Because of these climatic condi-

tions, it is expedient to use a four-wheel drive vehicle to provide service. Regardless of weather and road conditions, every effort is put forth to complete delivery on the route. Also, a second vehicle must be maintained as a backup to meet the service needs of the job.

In my county, there are 11 rural routes, of which 10 use a four-wheel drive vehicle as the primary delivery vehicle. The constant stop-and-go driving over changing road conditions takes a heavy toll on an automobile. Vehicle maintenance costs are much greater than ordinary driving. Also the carrier is penalized at time of a trade-in, because full trade-in value is not realized due to the use the vehicle has been subjected to.

In order to keep vehicle expenses within the amount of EMA paid by the Postal Service, I do all minor repair jobs, change oil, lubricate and change tires on my vehicle. To perform these functions requires having appropriate tools, air compressor, et cetera.

For the year 1984, I received a total of $6,695.97 EMA. Actual expenses incurred were $5,943.87. This amount does not include an estimate of time I spent performing the work previously described. There were no major repair bills in 1984. Rather the expenses were just general maintenance costs such as gasoline, $2,700; tires, $700; brake linings, $160.

For the first 5 months of 1985, my expenses have exceeded the EMA by $603. Here again, this amount does not include work performed by myself.

As a state officer for the past 15 years, and having traveled extensively and talked with carriers in Virginia, I feel I can speak with some knowledge and authority of what it costs to operate and maintain a vehicle on a rural route. Because of these tremendous costs, a need exists to give some relief in computing the amount of deductions allowed rural carriers for the use of their vehicles.

Thank you again, Mr. Chairman, for the opportunity to present this testimony before you and your committee this morning.

Chairman RANGEL. Well, we really want to thank all of you. It just proves that no matter how hard we try to work on the tax writing committee, sometimes we leave a lot of things to the executive branch, and it just doesn't work out the way we would want it. I think this is a classic case to see how responsive the committee can be and how Government can work as long as they have dedicated people like you that insist on these types of reviews so we can give the system credibility, because if people don't believe in it or don't believe it is fair, then we have a weaker America. We are stronger because of your participation, and you should be pleased with your leadership, as your membership obviously is, with the belief we can draft the types of legislation—better still reach the type of agreement with the administration so it will not reoccur.

Mr. Vander Jagt.

Mr. VANDER JAGT. Thank you, Mr. Chairman.

I would like to thank you for your leadership in making sure this committee is responsive to the problem and some of the members of this committee who have demonstrated great leadership on this issue. I would like to join the chairman in commending every one of the members of the panel for their excellent testimony.

I do have just one question. Treasury did say that there were instances where they would allow the deductions under the 1956 agreement, but that there were also reimbursements in addition to that which the 1956 agreement allowed.

As I understand it, that reimbursement would be counted as income and through errors, some of the letter carriers did not count it as income. Is my impression correct? And if my impression is correct, do you have any quarrel with that?

Mr. GRIFFITH. The 1956 ruling was there, but there is a problem, as we see it, with just allowing that group of people to be forgiven. I think the majority of rural carriers did not take advantage of the 1956 form—it would leave out those people that did nothing. That is, not declare either expenses, depreciation or report the income at all. It would leave them out without any relief at all. To limit it only to those people who used the 1956 form would be a minority of the people having trouble with the auditors, I believe.

Mr. VANDER JAGT. I thank you.

Just one further question, and again it is an opportunity to correct an erroneous expression, if I have gathered one. I think you have made an overwhelming case that you face different circumstances than the average user of a vehicle in pursuit of business. I don't see how we could quarrel with that. I agree with my colleagues, I am not sure the conditions have changed that much since 1956, and anyone out there in the real world knows that it hasn't.

As I understand it, Treasury's answer is you don't have to take the standard mileage deduction, you can actually keep track of all this and take that deduction. Your answer would be that leads to mountains of paperwork, and the 1956 formula worked well for 30 years, the customers were happy, the carriers were happy, everybody was happy, so if it worked well—if it ain't broke, don't fix it.

Mr. GRIFFITH. Absolutely. I think you have a very thorough understanding of our position.

Mr. VANDER JAGT. Thank you.

Chairman RANGEL. The committee wants to thank again Mr. Flippo and Mr. Jenkins for bringing this matter to the attention of the full committee, for assisting the subcommittee in getting this hearing, and for assisting us in getting a solution for the future problems.

Mr. Flippo?

Mr. FLIPPO. Thank you, Mr. Chairman. I appreciate that.

I just have one point I thought would be important to bring out. Your association negotiates with the Postal Service for the EMA, and in 1981, you agreed that the Postal Service had the authority to put some 13,000 of its own vehicles on the road to test whether or not this was some ripoff that the carriers were getting. They have put to date less than 1,000. So they have the option to put their own in there, but they haven't done it, so they must be getting a pretty good deal from the rural mail carriers in this country today.

Would you care to comment on that?

Mr. GRIFFITH. In the negotiations of 1981, national agreement between the rural carriers and the Postal Service, the Postal Service won that concession from the union, whereby they would have the

option of placing a Postal Service owned vehicle on approximately 13,000 of the 39,000 rural routes. Since that time—that was assuming they could provide the vehicle cheaper than the rural carrier could provide it with the EMA that he was receiving.

Since that time, out of the 13,000 possible vehicles, they have provided approximately 550 to 600 vehicles throughout the Nation, and they indicate to us at the present time they anticipate not offering any more. It tells us if they can do it cheaper, they would.

Mr. FLIPPO. Yes; I agree. Not only that, but I am sure they keep really good, tight records on their vehicles in the field out there, and so they have a standard to measure what they are reimbursing you for, and so I don't think there is any question that your EMA is barely covering, and in some cases, not covering the costs that you are incurring in regard to this.

I think you made an outstanding case, and I commend you for the testimony that you have given today, and I thank the Chair.

Chairman RANGEL. Mr. Dorgan?

Mr. DORGAN. Thank you. I don't have any further questions. I just wanted to echo the sentiments expressed by other members of the panel. I think we have received some excellent information, and information is what we use to try to craft some good legislation around here, and you have been very helpful in that. I appreciate the fact that you took a lot of time and came long distances to be here.

Thank you very much.

Chairman RANGEL. Mr. Matsui?

Mr. MATSUI. Thank you. I have no questions. I would like to thank the panel for excellent testimony, and you for holding these hearings. Thank you.

Chairman RANGEL. Thank you very much. We look forward to working with you until this matter is resolved.

Mr. GRIFFITH. If the chairman would allow, we would appreciate keeping the record open to provide additional information if necessary.

Chairman RANGEL. Without objection. Thank you very much. The subcommittee stands adjourned.

[Whereupon, at 11:10 a.m., the hearing was adjourned.]

[Submissions for the record:]

STATEMENT OF HON. TOM DASCHLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH DAKOTA

Mr. Chairman, and members of the Subcommittee, I appreciate and welcome the opportunity to present my testimony in strong support of H.R. 1884, legislation to provide needed relief to rural letter carriers from the unfair audits to which they are now being subjected by the Internal Revenue Service. I compliment and congratulate our colleagues, Mr. Flippo and Mr. Jenkins, for the introduction of this legislation and as a cosponsor of this measure, I encourage the prompt and favorable consideration of H.R. 1884 by this Committee.

Mr. Chairman, rural letter carriers, not a government agency or bureau, have historically been responsible for both providing and maintaining the transportation they needed to deliver the mail and furnish a wide variety of postal services to the people of rural America. As compensation for using their personal vehicles, rural letter carriers have received remibursement from the U.S. Postal Service. This system of providing rural letter carriers reimbursement for use of a personal vehicle has worked well for more than 80 years. By providing rural letter carriers this reimbursement, the Postal Service has been able to avoid the costly and administratively burdensome responsibilities of providing and maintaining the extensive fleet of ve-

hicles which would be needed by rural letter carriers to provide essential postal services throughout rural America. Not only has the reimbursement system worked and worked well for many years, it has been economically sound and efficient.

Unfortunately, beginning in 1983, the Internal Revenue Service began to take action which eventually prompted the need for the legislation now being considered by this Committee. Briefly, the IRS decided to ignore and repudiate the long standing and previously accepted understanding regarding the Equipment Maintenance Allowance received by rural letter carriers from the Postal Service. As a result, rural letter carriers are now being subjected to unfair and unwarranted audits by the Internal Revenue Service.

H.R. 1884 provides a fair and reasonable legislative solution to this unfair and inequitable administratively created situation. Again, I encourage the prompt and favorable consideration of this important legislation by the Committee and I appreciate having the opportunity to testify on behalf of this important measure.

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STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Mr. Chairman, I'm pleased that you've called this hearing today to receive testimony on H.R. 1884, a bill introduced by Congressmen Jenkins, Flippo and others. I submit this testimony today in strong support of the bill, and I urge your committee to favorably report the measure.

I introduced an identical bill in the Senate on April 3, 1985, S. 855, along with Senator Grassley from Iowa. Our bill now has 12 cosponsors.

Mr. Chairman, I believe we should act on these measures as soon as possible for one overriding reason—when taxpayers file their tax returns, acting in good faith on a long-standing practice of the Internal Revenue Service (IRS), they should be able to rely on this practice and not be subjected to a retroactive reversal of that practice. From the information I've received, Mr. Chairman, that's what has happened with regard to the rural letter carriers in this country. For almost twenty years these men and women filed their returns, and accounted for their automobile expenses and equipment maintenance allowances (EMA), in a consistent manner, which had been approved by the IRS. It seems only fair, therefore, that any change in that practice by the IRS should have been applied prospectively, and certainly not retroactively, as is the case now. That's one of the features of the bill before the committee. The other basic part of H.R. 1884 deals with how these expenses are to be treated in future tax years.

Mr. Chairman, in 1956 the Postal Service and the IRS agreed on a worksheet to be used by the rural letter carriers. This worksheet essentially provides that the deductions for use of the letter carrier's vehicle are to be compared with the EMA received for that year. If the EMA exceeds the expenses, then the excess is included as other income on the Form 1040; if the expenses are greater than the EMA, then the excess is an adjustment to income, and the worksheet is attached to the tax return in lieu of Form 2106 (which is the normal form for Employee Business Expenses, including use of an automobile in a trade or business). This special worksheet was developed for use by the rural letter carriers.

In November of 1983, the IRS notified the Postal Service that it was reversing its policy, and that the entire EMA should be included as "other income" and put on the taxpayer's W-2. Then, the letter carrier could account for his or her auto expenses like any other taxpayer. About a month later, the Postal Service responded that this would be done, but that since the reversal occurred so late in 1983, that it would be impossible for this to be done for 1983, but that beginning in 1984, it would include the EMA as "other income" on the W-2. That's exactly what was done, Mr. Chairman. But, it wasn't finally determined that the worksheet formula for determining their expenses (approved in 1956 by the IRS) would not be accepted until September 4, 1984.

Mr. Chairman, for the 1984 tax year, I think it's important to note that the letter carriers complied with the new rules, and they are doing so today. However, the IRS, after its reversal, began to audit rural letter carriers for open years, and literally thousands of them are being called in and subjected to audits based on years in which they relied on previous IRS interpretations of how auto expenses should be accounted for. That's wrong.

This reversal should have only be prospective, and it's my understanding that the audits are now suspended based on many concerns by Members of Congress, and also, a letter sent to Treasury Secretary James Baker on April 2, 1985, by the Chairman and Ranking Member of the full Committee that contained a paragraph dealing with this serious issue.

Mr. Chairman, the bill before your committee (as well as S. 855) would stop the retroactive nature of this IRS' reversal, and would establish clear, understandable rules for the rural letter carriers in future tax years. For years beginning January 1, 1985, the rural letter carrier could use 150% of the standard mileage rate, or if he takes the investment credit and depreciates his vehicle, he could compute his business expenses using these provisions without regard to the 50% business use requirement contained in Section 280F of the Internal Revenue Code.

Mr. Chairman, a question might be raised as to why to treat these men and women differently. I think there are two excellent reasons. First, the EMA is arrived at through arms' length negotiation with the Postal Service. It is not meant to be compensatory in nature, and in fact, it isn't. Further, the EMA can fluctuate depending upon the price of gasoline. A year or so ago, it was 31.5 cents per mile, but due to decline in the price of gasoline, it dropped to 30 cents per mile. This shows quite clearly that the EMA is not something like salary, but is designed to almost exactly approximate what it costs to drive that vehicle one mile. The second reason, Mr. Chairman, is that to the best of my knowledge, there are no other comparable situations. Most automobile expenses are for salesmen and self-employed people. I would imagine this involves highway and in-town driving on paved roads. The rural letter carriers, however, drive on all types of surfaces, and in the State of Arkansas, many of the routes are primarily on gravel and other unfinished surfaces. Further, these routes involve hundreds of stops each day, something most people claiming auto expenses don't have to cope with. Therefore, it seems to me that these men and women are in a unique work situation, and this justifies the separate rule.

Mr. Chairman, for all of these reasons, I hope your subcommittee and the full committee will approve this bill. I intend to work with my colleages in the Senate for the passage of S. 855. These bills are a sound, reasoned approach to a serious problem facing these men and women who work extremely hard delivering the mail in rural areas of the country.

Again, I appreciate your holding this hearing, and I look forward to working with you and others on this legislation.

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MONROE, LA, *June 15, 1985.*

JOSEPH K. DOWLEY,
*Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.*

DEAR MR. DOWLEY: I am asking your support for bills S-855 and H.R. 1884. I have been a rural letter carrier for over nineteen years, therefore, I am very concerned with the outcome of these two bills. The initial cost of providing a vehicle required to accommodate the mail volume on a daily basis can put a strain on family finances. Careful consideration has to be given to the make, model, road conditions and kind of route the vehicle will be used on. I order a vehicle because they do not stock 4-door midsize, 8 cylinder cars with over size cooling systems. Routes with very good road conditions, with a heavy volume of mail and 400 to 700 stops a day puts wear and tear on vehicles very quickly. Brakes wear out as often as every three months and to get extra good service from brakes they may last 12,000 miles. One complete brake job for a rural carrier vehicle can cost $115.00 to $200.00.

Transmissions sometime have to be replaced with as little as 5,000 miles on them and in lots of cases once a year every year. The best grade of radial tires do not last more than a year with this kind of driving. Rural carriers are not covered by road hazard warranties because we are constantly pulling off and on the road. The last tire I cut on the route had 3,700 miles on it.

A replacement tire cost $80.00.

Batteries have to be replaced also.

We also carry work-rate insurance for these vehicles. The premium for work-rate is higher than average rates.

Alignment jobs for wheels needs to be done every 5,000 miles. Driving off and on the shoulder of the road keeps wheels out of line and wears tires out quickly.

Gas prices vary from area to area. Prices have been as high as $1.61.9 for unleaded and June 85 prices are $1.24.9. Changing oil, oil filter, air filter, lube jobs, and washing all add up to a real expense.

These are a few of the things I, as a rural carrier, have encountered. Some of these vehicles do not last the 60,000 mile or three year guidelines we have been using.

We need the support of the full committee on these bills.

Respectfully,

D. WINDHAM.

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